

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 23-21060-CV-WILLIAMS

MELINDA GELENG,

Plaintiff,

v.

INDEPENDENT LIVING SYSTEMS, LLC,

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion to Consolidate Cases (DE 8) ("**Motion**"). Defendant Independent Living Systems, LLC ("**Defendant**") filed a response in which it indicated that it does not oppose the Motion. (DE 12.) In the Motion, Plaintiff seeks to consolidate for both pre-trial and trial purposes pursuant to Federal Rule of Civil Procedure 42(a) the putative class action cases pending in this district relating to the alleged July 2022 data breach by an unauthorized third party on certain of Defendant's systems (collectively, the "**Related Actions**"). These cases are:

1. 1:23-cv-21060 *Geleng v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 17, 2023)
2. 1:23-cv-21061 *Basulto v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 19, 2023)
3. 1:23-cv-21071 *Riggins v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 20, 2023)
4. 1:23-cv-21093 *Koester v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 21, 2023)
5. 1:23-cv-21098 *Jensen v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 21, 2023)

6. 1:23-cv-21131 *Holcombe v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 22, 2023)
7. 1:23-cv-21134 *Cliver v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 22, 2023)
8. 1:23-cv-21148 *Ramirez v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 22, 2023)
9. 1:23-cv-21154 *Perez v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 23, 2023)
10. 1:23-cv-21193 *Fisher v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 27, 2023)
11. 1:23-cv-21200 *Berres v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 27, 2023)
12. 1:23-cv-21221 *Gutierrez v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 29, 2023)
13. 1:23-cv-21225 *McMullen v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 29, 2023)
14. 1:23-cv-21226 *Crockett v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Mar. 29, 2023)
15. 1:23-cv-21286 *Berg v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Apr. 4, 2023)
16. 1:23-cv-21323 *Salzano v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Apr. 6, 2023)
17. 1:23-cv-21433 *Isip v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Apr. 14, 2023)
18. 1:23-cv-21470 *Le Phung v. Independent Living Systems, LLC*
(S.D. Fla.) (filed Apr. 18, 2023)
19. 1:23-cv-21837 *Swaim v. Independent Living Systems, LLC*
(S.D. Fla.) (filed May 17, 2023)

Having reviewed the Motion and having found that the cases involve some allegations of the same issues of fact and law, grow out of the same alleged data breach

involving Defendant, have many of the same claims, and have proposed class definitions that will encompass the same persons, this Court determines, without making any findings on the merits of the claims or the propriety of class certification, that the cases have sufficient commonality of issues and parties to warrant consolidating the cases under Rule 42 and this District's Internal Operating Procedures. This Court further finds that the benefits of consolidation are not outweighed by any risk of prejudice or jury confusion. The effect of such consolidation will be judicial economy and preserving the Parties' resources, as well as avoiding disparate rulings in separate actions.

Accordingly, because this Court finds that the Related Actions have met the standard for consolidation under Rule 42 and that consolidation does not increase the risk of an unfair outcome, it is **ORDERED AND ADJUDGED** that the Motion (DE 8) is **GRANTED** as follows:

1. The above-listed actions shall be **CONSOLIDATED** for all purposes into the *Geleng* action, which is the lowest numbered case. All future pleadings, motions, briefs, and other papers shall be filed in the *Geleng* action, Case No. 1:23-cv-21060 which shall hereinafter be a Consolidated Action. The Clerk is **DIRECTED** to **CLOSE** the remaining actions: *Basulto* (Case No. 1:23-cv-21061), *Riggins* (Case No. 1:23-cv-21071), *Koester* (Case No. 1:23-cv-21093), *Jensen* (Case No. 1:23-cv-21098), *Holcombe* (Case No. 1:23-cv-21131), *Cliver* (Case No. 1:23-cv-21134), *Ramirez* (Case No. 1:23-cv-21148), *Perez* (Case No. 1:23-cv-21154), *Fisher* (Case No. 1:23-cv-21193), *Berres* (Case No. 1:23-cv-21200), *Gutierrez* (Case No. 1:23-cv-21221), *McMullen* (Case No. 1:23-cv-21225), *Crockett* (Case No. 1:23-cv-21226), *Berg* (Case No. 23-cv-21286), *Salzano* (Case No. 1:23-cv-21323), *Isip* (Case No. 1:23-cv-21433), *Le Phung* (Case No.

1:23-cv-21470), and *Swaim* (Case No. 1:23-cv-21837).

2. All previously entered deadlines in the Related Actions are vacated as **MOOT**. All pending motions in the Related Actions are **DENIED AS MOOT**.

3. All papers filed in the Consolidated Action shall be filed under Case No. 1:23-cv-21060, the number assigned to the first-filed case, and shall bear the following caption: *In re Independent Living Systems Data Breach Litigation*, Case No. 23-cv-21060-KMW.

4. The case file for the Consolidated Action will be maintained under Master File No. 1:23-cv-21060. The Clerk is **DIRECTED** to establish a Master File. When a pleading is intended to apply to all actions to which this Order applies, the words "All Actions" shall appear immediately after the words "This Document Relates To:" in the caption described above. When a pleading is not intended to apply to all actions, the docket number for each individual action to which the paper is intended to apply and the last name of the first-named plaintiff in said action shall appear immediately after the words "This Document Relates To:" in the caption identified above, e.g., "Case No. 1:23-cv-21061 (*Basulto*)."

5. Each new case that arises out of the subject matter of the Consolidated Action, which is filed in this Court or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party objects to consolidation, as provided for herein, or to any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party. Such party shall object by filing an application for relief, and this Court shall determine whether it is appropriate to grant such application. Nothing in the forgoing shall be

construed as a finding concerning the merits, validity, or propriety of the claims or class allegations in the Related Actions, as a waiver of Defendant's right to object to consolidation of any subsequently-filed or transferred related action, or as a waiver of Defendant's substantive rights or defenses, including its right to seek dismissal or otherwise contest the merits of Plaintiff's claims or to oppose any of the requirements for class certification.

6. As directed at the hearing held before this Court on July 12, 2023, Defendant, an LLC, must identify each member of the LLC and establish each member's citizenship in a notice filed with the Court, supported by an affidavit, **no later than August 7, 2023**.

7. The Parties shall have until **August 21, 2023** to submit a leadership structure setting forth the Lead Plaintiff and Class Counsel. If the Parties are unable to come to a consensus prior to this deadline, the Parties must submit applications for appointment of Lead Plaintiff and Class Counsel no later than **September 5, 2023**. The application briefs shall be limited to fifteen (15) pages and each application may include no more than fifteen (15) pages of attachments. Defendant may file a response of up to five (5) pages no later than **September 11, 2023**.

8. Plaintiffs shall file a Consolidated Amended Complaint no later than **45 days** following the appointment of Lead Plaintiff and Class Counsel.

9. Defendant shall have **30 days** from the filing of the Consolidated Amended Complaint to file a motion to dismiss or otherwise respond thereto, Plaintiffs shall have **30 days** thereafter to file their opposition, and Defendant shall have **21 days** thereafter to file a reply in support.

10. This Order shall apply to the above-captioned matters, any subsequently consolidated action, any actions consolidated with the above-captioned matters, and any actions filed in or transferred or removed to this Court relating to the fact and the data breach underlying this litigation.

DONE AND ORDERED in Chambers in Miami, Florida, this 31st day of July, 2023.



KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE